

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket Nos. 2015-075-00655A-00656A

Parcel Nos. 08-14-100-002 and 08-14-100-003

Karl Oehlerking,

Appellant,

v.

Plymouth County Board of Review,

Appellee.

Introduction

This appeal came on for a telephone hearing before the Property Assessment Appeal Board (PAAB) on October 21, 2015. Karl Oehlerking was self-represented. County Attorney Darin J. Raymond is counsel for the Plymouth County Board of Review. Assessor Robert Heyderhoff represented it at hearing.

Oehlerking is the owner of agricultural property located in Westfield Township, Plymouth County, Iowa. There are no improvements on either parcel.

The following chart summarizes the parcels and assessments.

Parcel Number	Site Size (Acres)	Original 2015 Assessed Value	2015 Assessed Value after BOR
08-14-100-002	21.70	\$43,580	\$28,470
08-14-100-003	55.39	\$103,670	\$64,080

Oehlerking protested to the Board of Review claiming the property is not assessable, exempt from taxes, or misclassified under Iowa Code section 441.37(1)(a)(1)(c). He asserted the properties are subject to the Emergency Wetland Reserve Program (EWRP), which offers tax abatement. He believed the assessments should be \$11,700 for parcel number 08-14-100-002, and \$36,700 for parcel number

08-14-100-003. The Board of Review agreed, in part, and reduced the assessment on both parcels. Oehlerking then appealed to PAAB.

Findings of Fact

Oehlerking believes the assessments are incorrect because of an EWRP contract he signed in 1995 that he asserts implied a permanent abatement. He testified that Plymouth County Soil Conservation Service and the Farm Services Agency promoted this wetland program. He explains his properties are located in a flood area; and that sometime in the 1980's, the Army Corp of Engineers abandoned a levee that had protected the area. He testified that in the early 1990's, FEMA attempted to repair the levee; however, it was unsuccessful and the levee remains breached today. Because of this, he was told that federal crop insurance or disaster payments would no longer be available and it was recommended to put the properties into the EWRP. It was his understanding that by doing so, he would have a tax abatement in perpetuity. Oehlerking did not submit his EWRP contract or any other documentation to substantiate his claims.

The Board of Review submitted a letter by Assessor Robert Heyderhoff setting forth the background of Oehlerking's assessments. (Ex. A). Heyderhoff also testified.

In 2013, the Department of Revenue adopted new administrative rules on how agriculturally classified property is to be assessed and required counties to change their systems by 2017. Heyderhoff testified that Plymouth County implemented the new system for its 2015 assessments.

The new system requires that agricultural land is assessed based on the parcel's CSR2, a relative ranking of all soils mapped in the state of Iowa based on their potential to be utilized for intensive row crop production. The new system also requires assessors to determine if farm ground is cropland or non-cropland as part of the revised valuation system. Iowa Admin. Code r. 701-71.3; IOWA DEPARTMENT OF REVENUE, IOWA REAL PROPERTY APPRAISAL MANUAL 2-25 to 2-34. Moreover, Heyderhoff testified that the implementation of this new system also eliminated all deductions and previous easements.

Finally, Heyderhoff explained the new rules were refined and said that if there was a permanent easement that precluded most crops then those acres could be considered non-cropland. For this reason, the Board of Review changed the assessment to show these acres as non-cropland, reducing the assessment on both parcels. However, he notes the new rules do not allow any other deductions except for unusual or unique circumstances. In his opinion, EWRP is neither unique nor unusual.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

Oehlerking contends his properties should be exempt from taxation under section 441.37(1)(a)(1)(c). He testified to his belief that these properties are subject to perpetual tax abatement because they are enrolled in the EWRP. Oehlerking has not provided any documentary evidence to substantiate this claim. As a result, we find there is not sufficient evidence for this Board to conclude that his properties should, in fact, be exempt from taxation.

We note that there are several property tax exemptions that exist in Iowa Code Chapter 427 for wetland and wildlife habitats. Because of the lack of evidence in the record, however, we are unable to determine whether these exemptions may apply to


the subject properties. We suggest Oehlerking consult with the Assessor about the criteria, requirements, and, if applicable, the process for submitting an application for these exemptions.

Order

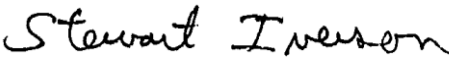
IT IS THEREFORE ORDERED that the Plymouth County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 9th day of November, 2015.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair

Copies to:

Karl Oehlerking

Robert Heyderhoff